

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 15-003971
Issue No.: 7001
Case No.: [REDACTED]
Hearing Date: April 29, 2015
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on April 29, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], specialist.

ISSUE

The issue is whether DHHS abused their discretion by not issuing payment for a vehicle purchase after 43 days.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On an unspecified date, Claimant applied for assistance with a vehicle purchase.
2. On [REDACTED], DHHS approved Claimant to receive \$2,000 for a vehicle purchase.
3. On [REDACTED], Claimant requested a hearing to compel DHHS to issue payment for the approved vehicle purchase.
4. As of [REDACTED], DHHS has not issued payment for the vehicle purchase.

CONCLUSIONS OF LAW

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603. DHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Direct Support Services (DSS) are goods and services provided to help families achieve self-sufficiency. BEM 232 (10/2014), p. 1. DSS includes Employment Support Services (ESS) and Family Support Services (FSS) that directly correlates to removing an employment-related barrier. *Id.* Employment Support Services (ESS) include, but are not limited to, transportation, special clothing, tools, physical exams, vehicle purchases, vehicle insurance and vehicle repair. *Id.*

It was not disputed that DHHS approved Claimant for a \$2,000 vehicle purchase. Claimant requested a hearing to compel DHHS to issue payment for the vehicle purchase.

Claimant testified that she grew impatient waiting for DHHS to issue her previously approved payment. DHHS conceded that payment had not issued payment, even by the date of hearing. DHHS had no explanation for why payment was not issued or when Claimant could expect payment to be issued.

There is no entitlement for DSS. BEM 232 (10/2014), p. 1. The decision to authorize DSS is within the discretion of the DHHS or PATH program. *Id.*

Generally, unless DHHS abuses their discretion, an administrative remedy for DSS is inappropriate. Thus, it must be determined if DHHS abused their discretion by not fully processing Claimant's DSS request.

DHHS provides no timeframes for processing DSS payments. Most DHHS programs allow for an application to be processed within 45 days (see BAM 110).

It is not known how much time has elapsed since Claimant first requested help with a vehicle purchase. It is known that as of Claimant's hearing request date of March 9, 2015, approximately 43 days passed since DHHS sent Claimant approval of a vehicle purchase.

Based on presented evidence, 43 days to issue payment through a discretionary program is not found to be an abuse of discretion. Thus, Claimant's hearing request will be dismissed.

It should be noted that as of the date of hearing, more than three months have passed since DHHS approved Claimant's DSS request. If Claimant requests a

hearing at this point, an argument that DHHS has abused their discretion is much more compelling. Ideally, DHHS will satisfactorily resolve Claimant's reasonable concerns without the need for Claimant to request another hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS did not abuse their discretion in delaying 43 days from the date of approval to issue a DSS payment. The actions taken by DHHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/7/2015**

Date Mailed: **5/7/2015**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

